

NC

SEP 05 2002

Michael N. Milby, Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

In Re ENRON CORPORATION
SECURITIES, DERIVATIVE &
"ERISA" LITIGATION,

§
§ MDL 1446
§

United States Courts
Southern District of Texas
ENTERED

SEP 09 2002

MARK NEWBY, ET. AL.

§

Michael N. Milby, Clerk

Plaintiffs

§

VS.

§

CIVIL ACTION NO. H-01-3624
AND CONSOLIDATED CASES

§

ENRON CORPORATION, ET.AL.
Defendants

§

§

DAVID A. HUETTNER, Individually and as
Custodian of the David A. Huettner Individual
Retirement Account; SUSAN B. HUETTNER;
and DONALD E. HUETTNER, Individually
and as Custodian of the Donald E. Huettner
Individual Retirement Account
Plaintiffs

§

§

§

§

§

§

§

§

VS.

§

CIVIL ACTION NO. H-02-2984

§

EOTT ENERGY PARTNERS, L.P.;
EOTT ENERGY CORP.; KENNETH LAY;
DANA R. GIBBS; STANLEY C. HORTON;
MARY ELLEN COOMBE;
DAVID R. HULTSMAN; LORI L. MADDOX;
PEGGY B. MENCHACA;
MOLLY M. SAMPLE; SUSAN C. RALPH;
DANIEL P. WHITTY; and
ARTHUR ANDERSEN, L.L.P.

§

§

§

§

§

§

§

§

§

**AGREED ORDER AND STIPULATION TO SET THE DATE
TO RESPOND TO PLAINTIFFS' ORIGINAL COMPLAINT**

EOTT Energy Partners, L.P., EOTT Energy Corp. ("EOTT"), Dana R. Gibbs, Mary Ellen
Coombe, David R. Hultsman, Lori L. Maddox, Peggy B. Menchaca, Molly M. Sample, Susan C.
Ralph, Daniel P. Whitty (collectively referred to as the "Defendants") and Plaintiffs file this
agreed order and stipulation to set the date by which Defendants must file a response to
Plaintiffs' Original Petition.

1028

1. On May 15, 2002, Plaintiffs filed their Original Complaint with the Northern District of Ohio's Eastern Division.

2. On June 21, 2002, EOTT filed a Motion to Dismiss for Improper Venue and Alternatively Motion to Transfer Venue under Federal Rule of Civil Procedure 12(b)(3). ("EOTT's Motion").

3. On July 31, 2002, a conditional transfer order was signed sending the case to the Southern District of Texas, Houston Division. However, the Ohio court did not rule on EOTT's Motion.

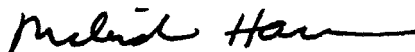
4. Usually, a party has ten (10) days after the court disposes of any Rule 12 motion to file a responsive pleading to the plaintiff's complaint. Fed.R.Civ.P. 12(a)(4)(A).

5. Because the Ohio Court did not dispose of EOTT's Motion and the conditional transfer order was silent in setting a deadline to file responsive pleadings to Plaintiffs' Original Complaint, it is unclear when Defendants' responsive pleadings are due.

6. Therefore, the parties stipulate and ask the court to order that the Defendants have until September 20, 2002 to file a response to Plaintiffs' Original Complaint.

7. For these reasons, the parties ask the court to set the date for EOTT Energy Partners, L.P., EOTT Energy Corp., Dan R. Gibbs, Mary Ellen Coombe, David R. Hultsman, Lori L. Maddox, Peggy B. Menchaca, Molly M. Sample, Susan C. Ralph, and Daniel P. Whitty to file a response to Plaintiffs' Original Complaint on or before September 20, 2002.

SIGNED THIS 6th day of September, 2002



UNITED STATES DISTRICT JUDGE

Respectfully submitted,

By: Walter J. Cicack
Walter J. Cicack
TBA No.: 04250535
1221 McKinney Street, Suite 4400
Houston, Texas 77010
Telephone: (713) 652-5151
Telecopier: (713) 652-5152

ATTORNEY FOR DEFENDANTS,
EOTT ENERGY PARTNERS, L.P. and
EOTT ENERGY CORP.

and

By: John A. Huettner
John A. Huettner
Bar No. 00393479
630 Leader Building
526 Superior Avenue, N.E.
Cleveland, Ohio 44114
Telephone: (216) 771-1330
Telecopier: (216) 283-6700

ATTORNEY FOR PLAINTIFFS

By: Paul D. Clote
Paul D. Clote
TBA No. 04407300
5300 Memorial Dr., Suite 800
Houston, Texas 77007
Telephone: (713) 659-2800
Telecopier: (713) 654-0052

ATTORNEY FOR DEFENDANTS, GIBBS
COOMBE, HULTSMAN, MADDOX,
MENCHACA, SAMPLE, RALPH AND
WHITTY

Respectfully submitted,

By: _____
Walter J. Cicack
TBA No.: 04250535
1221 McKinney Street, Suite 4400
Houston, Texas 77010
Telephone: (713) 652-5151
Telecopier: (713) 652-5152

ATTORNEY FOR DEFENDANTS,
EOTT ENERGY PARTNERS, L.P. and
EOTT ENERGY CORP.

and

By: _____
John A. Huettner
Bar No. 00393479
630 Leader Building
526 Superior Avenue, N.E.
Cleveland, Ohio 44114
Telephone: (216) 771-1330
Telecopier: (216) 283-6700

ATTORNEY FOR PLAINTIFFS

By: Paul D. Clote
Paul D. Clote
TBA No. 04407300
5300 Memorial Dr., Suite 800
Houston, Texas 77007
Telephone: (713) 659-2800
Telecopier: (713) 654-0052

ATTORNEY FOR DEFENDANTS, GIBBS
COOMBE, HULTSMAN, MADDOX,
MENCHACA, SAMPLE, RALPH AND
WHITTY